

REMARKS

I. Status of the Application

Claims 1-3, 5-7, 11, 12, 14-20, 23, 25, 27-29, and 31-43 were pending.

II. Claim Rejections

35 USC § 103

Claims 1, 2, 5-7, 11, 12, 14, 15, 29, 31, 33, and 35-40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0013729¹ to Kida (“Kida”) in view of U.S. Patent Publication No. 2004/0103024 to Patel, et al. (“Patel”). Claims 6 and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kida in view of Patel, and further in view of U.S. Patent Publication No. 2002/0022999 to Shuster, et al. (“Shuster”). Claim 42 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kida in view of Patel, and further in view of U.S. Patent Publication No. 2004/0199546 to Calistri-Yeh, at al. (“Calistri-Yeh”). Claims 3 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kida in view of Patel, and further in view of U.S. Patent Publication No. 2002/0174089 to Tenorio (“Tenorio”). Claims 17-20, 23, 28, 32, 34, 35, and 41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kida in view of Patel, and further in view of U.S. Patent Publication No. 2004/0186776 to Llach (“Llach”).

Applicants submit that the cited references fail to teach or suggest, *inter alia*, the “obtaining, at an offer exchange server, an advertiser offer from an advertiser for placing an advertisement in at least one web page associated with an advertisee, the advertiser offer comprising conditions including a first set of one or more user context conditions required by the advertiser for presentation of the advertisement to the user in the at least one web page” element recited in claim 1. The Examiner asserts that Kida discloses this feature with reference to the “conditions” discussed at ¶¶106, 273-275, and

¹ Applicants assume that the Examiner is relying on the Kida reference and that the cited publication number appears to be a typographical error.

82. (Office Action, 12/14/2011, p. 3). Applicants disagree. Kida's conditions are used to define the kind of users to distribute advertisements to. (Kida, ¶¶106, 272). Kida fails to teach or suggest "an advertiser offer for placing an advertisement in at least one web page associated with an advertisee." Rather, the Kida reference discusses distributing advertisements to more suitable users based on their interests. (Kida, ¶¶17-19). The Kida reference is silent with regard to an advertiser making offers to place advertisements on an advertisee's web page.

In, the Final Office Action dated 12/14/2011, the Examiner acknowledged the shortcomings of Kida for failing to disclose, among other elements, "obtaining, at the offer exchange server, user context information that indicates the context of substantially real-time activities of the user in relation to the advertisee." Although the Examiner asserts Patel to cure these deficiencies, Applicants respectfully disagree as Patel, either alone or in combination with Kida and the other art of record, fails to cure the deficiencies of Kida. The Examiner asserts that the "real time activities" described in ¶47 of the Patel reference discloses this feature. (Office Action, 12/14/2011, p. 3). Applicants respectfully submit that the Examiner has misinterpreted the teachings of the Patel reference. Instead, Patel discusses commoditizing the buying and selling of advertising on publishers' sites. (Patel, ¶45). The asserted "real time activities" refers to dynamic affiliate relationships between publishers and merchants resulting in the creation and termination of multiple contracts between parties in the commoditized market. (Patel, ¶¶45 and 47). By contrast, the method of claim 1 recites "obtaining, at the offer exchange server, user context information that indicates the context of substantially real-time activities of the user in relation to the advertisee." The "real time activities" described by Patel are related to commodity transactions not "real-time activities of the user in relation to the advertisee."

Patel also fails to teach or suggest the "obtaining, at the offer exchange server, an advertisee offer from the advertisee for placing the advertisement in the at least one web page associated with the advertisee, the advertisee offer comprising conditions including a second set of one or more user context conditions required by the advertisee for presentation of the advertisement to the user in the at least one web page," element recited in claim 1. The "matching advertiser/advertisee offers" via "a dynamic real-time

automated exchange for buying, selling and trafficking commoditized media while providing real time performance reporting and buyer/seller optimization modules,” is not “a match of the advertiser offer with the advertisee offer and with the user context information.” (Office Action, 3/14/11, p. 5). Patel’s system is a unidirectional offer system where advertisers make offers and publishers accept or reject the offers. (Patel, ¶¶44, 51, 113, and 132-137). The publishers described in the Patel reference specify criteria and filters for the kind of advertising and offers they will accept, but do not make any offers to the advertisers. (Patel, ¶¶124-137).

Patel further fails to teach or suggest “electronically, determining, via a processing device, a match of the advertiser offer with the advertisee offer and with the user context information,” and “electronically, via the processing device, arranging for presentation of the advertisement to the user based on the match indicating the advertiser offer conditions matches the advertisee offer conditions and the user context information.” As discussed above, only advertisers in Patel’s system create offers. Hence, Patel does not match an advertiser offer with an advertisee offer. Instead, Patel discusses that matching is performed by matching advertisements to the publisher’s preferences. (Patel, ¶¶121 and 138). Moreover, Patel does match an advertiser offer, with an advertisee offer, and with user context information. The text asserted for disclosing matching of “user context conditions” discusses the price a publisher can charge is based on predicting advertising effectiveness, and does not discuss using user context information for matching with advertiser offers and advertisee offers. (Office Action, 3/14/11, p.7).

Independent claims 5 and 33 are substantially similar to independent claim 1, but cast as system and computer readable media claims, respectively.

In light of the foregoing, reconsideration and withdrawal of the rejections are respectfully requested.

The dependent claims of the present application contain additional features that further substantially distinguish the invention of the present application over the prior art of record. Given the Applicants’ position on the patentability of the

independent claims, however, it is not deemed necessary at this point to delineate such distinctions.

III. Conclusion

For at least all of the above reasons, Applicants respectfully request that the Examiner withdraw all rejections, and allowance of all the pending claims is respectfully solicited. To expedite prosecution of this application to allowance, the Examiner is invited to call the Applicants' undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

/ Antonio Papageorgiou/

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